

LSK&D #: 502-1516 / 4841-2071-9572

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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STELLA GARSON,

Docket No.:

Plaintiff,

NOTICE OF REMOVAL

-against-

VICTORIA'S SECRET STORES, LLC,

Defendant.

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Defendant VICTORIA'S SECRET STORES, LLC (hereinafter referred to as "VSS"), by and through undersigned counsel, pursuant to 28 U.S.C. §§ 1332(a), 1441(a), 1446 and the applicable Local Rules of the Southern District of New York, hereby removes this action from the Supreme Court of the State of New York, County of New York, to the United States District Court for the Southern District of New York. In support thereof, VSS states as follows:

1. On or about February 7, 2020, Plaintiff filed a Summons and Complaint in the Supreme Court of the State of New York, County of New York, against VSS. (That action is herein referred to as the "State Action"). A copy of the Plaintiff's Complaint is attached hereto as Exhibit "A."

2. VSS was served with the Summons and Complaint on February 12, 2020.

3. Plaintiff did not assert a specific monetary demand in the Complaint nor file a Statement of Damages from which to assess the matter for removal to federal court.. As a result, VSS issued a Demand for Damages on or about March 16, 2020. Plaintiff did not respond to the Demand for Damages. VSS moved for an Order to Show Cause to compel a response to the Demand for Damages with a return date of December 14, 2020. On December 10, 2020 counsel for Plaintiff responded with a demand for damages of \$1,000,000 and requested withdrawal of the

Motion for Order to Show Cause. A copy of counsel's correspondence is attached as Exhibit "B". Plaintiff's demand is above the \$75,000.00 threshold necessary for removal in a diversity of citizenship case.

4. In accordance with 28 U.S.C. §1446(a), copies of the Summons, Complaint, and all other papers served upon VSS or filed in the State Action are attached hereto as a composite Exhibit "C."

5. This case arises out of a negligence and premises liability action wherein the Plaintiff alleges while shopping on the premises of the VSS store located at 1328 Broadway New York, New York on June 26, 2019, she sustained serious and permanent injuries, including pain, shock and mental anguish, requiring future medical care and rendering her unable to perform normal activities.

6. This Notice of Removal is filed in accordance with 28 U.S.C. §§1441(b).

7. Plaintiff is a resident of the State of New York.

8. VSS is a Delaware limited liability company with a principal place of business in Ohio.

9. VSS is a wholly owned subsidiary of Retail Store Operations, Inc., a Delaware corporation with its principal place of business in Ohio. For purposes of removal jurisdiction, neither VSS, nor Retail Store Operation, Inc., are citizens of New York.

10. Therefore, for purposes of removal, Plaintiff and VSS are citizens of different states.

11. Removal of this case is proper under 28 U.S.C. §1441 and 28 U.S.C. §1332, because complete diversity of citizenship exists between the Plaintiff and VSS, and the amount in controversy exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of costs and interest.

12. As this action asserts a claim between diverse parties for an amount greater than the jurisdictional threshold, the requirements of 28 U.S.C. §1332 have been satisfied and removal to this Court is proper.

WHEREFORE, Defendant Victoria's Secret Store, LLC, respectfully request that this case be entered upon the docket of the United States District Court for the Southern District of New York, pursuant to 28 U.S.C. §§1441 and 1446.

Dated: New York, New York
December 28, 2020

Respectfully submitted,

LESTER SCHWAB KATZ & DWYER, LLP

s/Allyson B. Belmont

Allyson B. Belmont
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